

## STATE OF VERMONT

In re ) Fair Hearing No. J-12/08-593  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals the decision by Department for Children and Families, Family Services Division substantiating a report of physical abuse by the petitioner under 33 V.S.A. § 4912. The Department has moved to dismiss the petitioner's appeal as untimely and as a matter of *res judicata*.

## DISCUSSION

The petitioner seeks to appeal a 2004 substantiation of child abuse. The matter was originally reviewed by the Department in 2005, and the petitioner appealed to the Human Services Board. On February 24, 2006 the Board entered an Order dismissing the petitioner's appeal. Fair Hearing No. 20,029. The petitioner did not appeal that dismissal.

The petitioner filed another appeal with the Board regarding the same substantiation on December 29, 2008. At a telephone status conference on February 10, 2009 the petitioner admitted that there was no other issue in the matter, and he did not alleged that he had been unable or

impeded from pursuing or appealing the Board's decision in his prior fair hearing.

Fair Hearing Rule No. 1000.2F provides as a general matter that appeals to the Board must be filed within thirty days from the date the grievance arose. In this case, the grievance that is the subject of the petitioner's appeal arose more than three years ago.

Furthermore, it is well-settled law that *res judicata* bars relitigation of matters after a final judgment. *In re Tariff Filing of C.V.P.S.*, 172 Vt. 14 (2001). The Board has upheld this doctrine as crucial to the finality and integrity of the fair hearing process. See, e.g., Fair Hearing No. 20,217.

Inasmuch as the petitioner is now seeking another hearing on the same issues raised more than three years ago in Fair Hearing No. 20,020, and inasmuch as his appeal in that matter was resolved by a final judgment of the Board, it must be concluded that his instant appeal is untimely and barred a matter of law.

ORDER

The Petitioner's appeal is dismissed.

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